



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2016–0109; 4500030113]

RIN 1018–BB82

Endangered and Threatened Wildlife and Plants; Adding Ten Species and Updating Five Species on the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in accordance with the Endangered Species Act of 1973, as amended (Act), are amending the List of Endangered and Threatened Wildlife (List) by adding: three foreign coral species (*Cantharellus noumeae*, *Siderastrea glynni*, and *Tubastraea floreana*), dusky sea snake (*Aipysurus fuscus*), Banggai cardinalfish (*Pterapogon kauderni*), the Tanzanian distinct population segment (DPS) of African coelacanth (*Latimeria chalumnae*), Nassau grouper (*Epinephelus striatus*), and three angelshark species (*Squatina aculeata*, *S. oculata*, and *S. squatina*). We are also updating the entries for Puget Sound-Georgia Basin canary rockfish (*Sebastes pinniger*), Puget Sound-Georgia Basin yelloweye rockfish (*Sebastes ruberrimus*), lower Columbia River coho salmon (*Oncorhynchus kisutch*), and the Puget Sound steelhead (*Oncorhynchus mykiss*) to reflect the designation of critical habitat, and we are updating the entry for the North Atlantic right whale (*Eubalaena glacialis*) to reflect an applicable rule citation. These amendments are based on previously published determinations by the National Marine Fisheries Service

(NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *Applicability date:* The three coral and dusky sea snake listings were applicable as of November 6, 2015. The Banggai cardinalfish listing was applicable as of February 19, 2016. The Tanzanian DPS of African coelacanth listing was applicable as of April 28, 2016. The Nassau grouper listing was applicable as of July 29, 2016. The three angelshark listings were applicable as of August 31, 2016. The critical habitat designations for the Puget Sound-Georgia Basin canary rockfish (*Sebastes pinniger*) and Puget Sound-Georgia Basin yelloweye rockfish (*Sebastes ruberrimus*) were applicable as of February 11, 2015. The critical habitat designations for the lower Columbia River coho salmon (*Oncorhynchus kisutch*) and the Puget Sound steelhead (*Oncorhynchus mykiss*) were applicable as of March 25, 2016. The applicable rule citation for the North Atlantic right whale (*Eubalaena glacialis*) was applicable as of December 6, 2013.

FOR FURTHER INFORMATION CONTACT: Sarah Quamme, Chief, Unified Listing Team, U.S. Fish and Wildlife Service, MS-ES, 5275 Leesburg Pike, Falls Church, VA 22041-3803; 703-358-1796.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act (16 U.S.C. 1531 *et seq.*) and Reorganization Plan No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the marine and anadromous taxa specified in this rule. Under section 4(a)(1) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as endangered or threatened.

Under section 4(a)(3)(A)(i) of the Act, NMFS must designate any habitat of endangered or threatened species which is then considered to be critical habitat. NMFS makes these determinations and critical habitat designations via its rulemaking process. Under section 4(a)(2) of the Act, we, the Service, are then responsible for publishing final rules to amend the List in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.11(h).

On December 16, 2014, NMFS published a proposed rule (79 FR 74953) to list the dusky sea snake (*Aipysurus fuscus*) and three foreign corals (*Cantharellus noumeae*, *Siderastrea glynni*, and *Tubastraea floreana*) as endangered species, and the Banggai cardinalfish (*Pterapogon kauderni*) as a threatened species. NMFS solicited public comments on the proposed rule through February 17, 2015. On October 7, 2015, NMFS published a final rule (80 FR 60560) to list the dusky sea snake and the three foreign coral species as endangered species. On January 20, 2016, NMFS published a final rule (81 FR 3023) to list the Banggai cardinalfish as a threatened species.

The listing of the dusky sea snake and three foreign coral species was applicable as of November 6, 2015. The listing of the Banggai cardinalfish was applicable as of February 19, 2016. In the final rules for these species (dusky sea snake and three corals: 80 FR 60560; Banggai cardinalfish: 81 FR 3023), NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

On March 3, 2015, NMFS published a proposed rule (80 FR 11363) to list the Tanzanian DPS of African coelacanth (*Latimeria chalumnae*) as a threatened species. NMFS solicited public comments on the proposed rule through May 4, 2015. NMFS addressed all public comments received in response to the proposed rule, and on March 29, 2016, NMFS

published a final rule (81 FR 17398) to list the Tanzanian DPS of African coelacanth as a threatened species. The listing of the Tanzanian DPS of African coelacanth was applicable as of April 28, 2016. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

On September 2, 2014, NMFS published a proposed rule (79 FR 51929) to list Nassau grouper (*Epinephelus striatus*) as a threatened species. NMFS solicited public comments on the proposed rule through December 31, 2014. NMFS addressed all public comments received in response to the proposed rule, and on June 29, 2016, NMFS published a final rule (81 FR 42268) to list Nassau grouper as a threatened species. The listing of Nassau grouper was applicable as of July 29, 2016. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

On July 14, 2015, NMFS published a proposed rule (80 FR 40969) to list the sawback angelshark (*Squatina aculeata*), smoothback angelshark (*Squatina oculata*), and the common angelshark (*Squatina squatina*) as endangered species. NMFS solicited public comments on the proposed rule through September 14, 2015. NMFS addressed all public comments received in response to the proposed rule, and on August 1, 2016, NMFS published a final rule (81 FR 50394) to list these three angelshark species as endangered species. The listing of these three angelshark species was applicable as of August 31, 2016. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

We are also updating the entries on the List for the Puget Sound-Georgia Basin canary rockfish (*Sebastes pinniger*), Puget Sound-Georgia Basin yelloweye rockfish

(*Sebastes ruberrimus*), lower Columbia River coho salmon (*Oncorhynchus kisutch*), and the Puget Sound steelhead (*Oncorhynchus mykiss*) to reflect the final designation of critical habitat for these four species. On August 6, 2013, NMFS published a proposed rule (78 FR 47635) identifying critical habitat for the Puget Sound-Georgia Basin DPSs of yelloweye rockfish and canary rockfish. NMFS solicited public comments on the proposed rule through November 4, 2013. On November 13, 2014, NMFS published a final rule (79 FR 68042) designating critical habitat for these two rockfish species. On January 14, 2013, NMFS published a proposed rule (78 FR 2726) identifying critical habitat for the lower Columbia River coho salmon and Puget Sound steelhead. NMFS solicited public comments on the proposed rule through April 15, 2013. On February 24, 2016, NMFS published a final rule (81 FR 9252) designating critical habitat for these two species.

The designation of critical habitat for the Puget Sound-Georgia Basin rockfish DPSs was applicable as of February 11, 2015. The designation of critical habitat for the lower Columbia River coho salmon and Puget Sound steelhead was applicable as of March 25, 2016. In the respective final rules (79 FR 68042 and 81 FR 9252), NMFS addressed all public comments received in response to the proposed rules. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

Finally, we are updating the entry on the List for the North Atlantic right whale (*Eubalaena glacialis*) to reflect the publication of a final rule eliminating the expiration date (or “sunset clause”) contained in regulations at 50 CFR 224.105 requiring vessel speed restrictions to reduce the likelihood of lethal vessel collisions with North Atlantic right whales. NMFS published the proposed rule on June 6, 2013 (78 FR 34024), and solicited

public comments through August 5, 2013. NMFS addressed all public comments received in response to the proposed rule. On December 9, 2013, NMFS published a final rule (78 FR 73726), followed by a correction to the final rule (79 FR 34245, June 16, 2014), removing the sunset clause. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

The rulemaking actions discussed above are presented in Table 1. As mentioned above, in all cases, NMFS addressed the public comments received.

Table 1. Rulemaking Actions by NMFS

Common name	Scientific name	Proposed rule publication date, action	Final rule publication date	Applicability date
Dusky sea snake	<i>Aipysurus fuscus</i>	December 16, 2014 (79 FR 74953), to list as endangered	October 7, 2015 (80 FR 60560)	November 6, 2015
Coral (no common name)	<i>Cantharellus noumeae</i>	December 16, 2014 (79 FR 74953), to list as endangered	October 7, 2015 (80 FR 60560)	November 6, 2015
Coral (no common name)	<i>Siderastrea glynni</i>	December 16, 2014 (79 FR 74953), to list as endangered	October 7, 2015 (80 FR 60560)	November 6, 2015
Coral (no common name)	<i>Tubastraea floreana</i>	December 16, 2014 (79 FR 74953), to list as endangered	October 7, 2015 (80 FR 60560)	November 6, 2015
Banggai cardinalfish	<i>Pterapogon kauderni</i>	December 16, 2014 (79 FR 74953), to list as threatened	January 20, 2016 (81 FR 3023)	February 19, 2016
African coelacanth (Tanzanian DPS)	<i>Latimeria chalumnae</i>	March 3, 2015 (80 FR 11363), to list as threatened	March 29, 2016 (81 FR 17398)	April 28, 2016
Nassau grouper	<i>Epinephelus striatus</i>	September 2, 2014 (79 FR 51929), to list	June 29, 2016 (81 FR 42268)	July 29, 2016

		as threatened		
Sawback angelshark	<i>Squatina aculeata</i>	July 14, 2015 (80 FR 40969), to list as endangered	August 1, 2016 (81 FR 50394)	August 31, 2016
Smoothback angelshark	<i>Squatina oculata</i>	July 14, 2015 (80 FR 40969), to list as endangered	August 1, 2016 (81 FR 50394)	August 31, 2016
Common angelshark	<i>Squatina squatina</i>	July 14, 2015 (80 FR 40969), to list as endangered	August 1, 2016 (81 FR 50394)	August 31, 2016
Canary rockfish (Puget Sound-Georgia Basin DPS)	<i>Sebastes pinniger</i>	August 6, 2013 (78 FR 47635), to designate critical habitat	November 13, 2014 (79 FR 68042)	February 11, 2015
Yelloweye rockfish (Puget Sound-Georgia Basin DPS)	<i>Sebastes ruberrimus</i>	August 6, 2013 (78 FR 47635), to designate critical habitat	November 13, 2014 (79 FR 68042)	February 11, 2015
Coho salmon (lower Columbia River)	<i>Oncorhynchus kisutch</i>	January 14, 2013 (78 FR 2726), to designate critical habitat	February 24, 2016 (81 FR 9252)	March 25, 2016
Steelhead (Puget Sound DPS)	<i>Oncorhynchus mykiss</i>	January 14, 2013 (78 FR 2726), to designate critical habitat	February 24, 2016 (81 FR 9252)	March 25, 2016
North Atlantic right whale	<i>Eubalaena glacialis</i>	June 6, 2013 (78 FR 34024), to eliminate the “sunset clause”	December 9, 2013 (78 FR 73726); correction to final rule on June 16, 2014 (79 FR 34245)	December 6, 2013

Administrative Procedure Act

Because NMFS provided a public comment period on the proposed rules for these taxa, and because this action of the Service to amend the List in accordance with the

determination by NMFS is nondiscretionary, the Service finds good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. The NMFS rules extended protection under the Act to these species and listed them in 50 CFR parts 223 and 224 or designated critical habitat under 50 CFR part 226; this rule is an administrative action to amend the List at 50 CFR 17.11(h) to reflect that NMFS has completed final listing determinations or revisions, or final critical habitat determinations, for these species. The public would not be served by delaying the effective date of this rulemaking action.

Required Determinations

National Environmental Policy Act

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We outlined our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

AUTHORITY: 16 U.S.C. 1361-1407; 1531-1544; and 4201-4245, unless otherwise noted.

2. Amend §17.11(h), the List of Endangered and Threatened Wildlife, by:
 - a. Revising the entry for “Whale, North Atlantic right” under MAMMALS;
 - b. Adding an entry for “Sea snake, dusky” in alphabetical order under REPTILES;
 - c. Adding entries for “Angelshark, common,” “Angelshark, sawback,” “Angelshark, smoothback,” “Cardinalfish, Banggai,” “Coelacanth, African [Tanzanian DPS],” and “Grouper, Nassau” in alphabetical order under FISHES;
 - d. Revising the entries for “Rockfish, canary [Puget Sound-Georgia Basin DPS],” “Rockfish, yelloweye [Puget Sound-Georgia Basin DPS],” “Salmon, coho [Lower Columbia River ESU],” and “Steelhead [Puget Sound DPS]” under FISHES; and
 - e. Adding entries for “Coral, (no common name)” [*Cantharellus noumeae*], “Coral, (no common name)” [*Siderastrea glynni*], and “Coral, (no common name)” [*Tubastraea floreana*] in alphabetical order by scientific name under CORALS.

The revisions and additions read as follows:

§ 17.11 Endangered and threatened wildlife.

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(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
MAMMALS * * * * *				
Whale, North Atlantic right	<i>Eubalaena glacialis</i>	Wherever found	E	35 FR 8491; 6/2/1970, 73 FR 12024; 3/6/2008 ^N ,

				76 FR 20558; 4/13/2011, 79 FR 42687; 7/23/2014, 50 CFR 224.103, 50 CFR 224.105, 50 CFR 226.203 ^{CH} .
* * * * * REPTILES * * * * *				
Sea snake, dusky	<i>Aipysurus fuscus</i>	Wherever found	E	80 FR 60560; 10/7/2015 ^N .
* * * * * FISHES * * * * *				
Angelshark, common	<i>Squatina squatina</i>	Wherever found	E	81 FR 50394; 8/1/2016 ^N .
Angelshark, sawback	<i>Squatina aculeata</i>	Wherever found	E	81 FR 50394; 8/1/2016 ^N .
Angelshark, smoothback	<i>Squatina oculata</i>	Wherever found	E	81 FR 50394; 8/1/2016 ^N .
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Cardinalfish, Banggai	<i>Pterapogon kauderni</i>	Wherever found	T	81 FR 3023; 1/20/2016 ^N .
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Coelacanth, African [Tanzanian DPS]	<i>Latimeria chalumnae</i>	Tanzanian DPS—see 50 CFR 223.102	T	81 FR 17398; 3/29/2016 ^N .
* * * * * 				
Grouper, Nassau	<i>Epinephelus striatus</i>	Wherever found	T	81 FR 42268; 6/29/2016 ^N .
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Rockfish, canary [Puget Sound- Georgia Basin DPS]	<i>Sebastes pinniger</i>	Puget Sound- Georgia Basin DPS—see 50 CFR 223.102	T	75 FR 22276; 4/28/2010 ^N , 76 FR 20558; 4/13/2011, 79 FR 42687; 7/23/2014, 50 CFR 226.224 ^{CH} .
Rockfish, yelloweye [Puget Sound-Georgia	<i>Sebastes ruberrimus</i>	Puget Sound- Georgia Basin DPS—see 50	T	75 FR 22276; 4/28/2010 ^N , 76 FR 20558; 4/13/2011,

Basin DPS]		CFR 223.102		79 FR 42687; 7/23/2014, 50 CFR 226.224 ^{CH} .
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Salmon, coho [Lower Columbia River ESU]	<i>Oncorhynchus kisutch</i>	Lower Columbia River ESU—see 50 CFR 223.102	T	70 FR 37160; 6/28/2005 ^N , 76 FR 20558; 4/13/2011, 79 FR 42687; 7/23/2014, 50 CFR 223.203 ^{4d} , 50 CFR 226.212 ^{CH} .
* * * * *	* *			
Steelhead [Puget Sound DPS]	<i>Oncorhynchus mykiss</i>	Puget Sound DPS—see 50 CFR 223.102	T	72 FR 26722; 5/11/2007 ^N , 76 FR 20558; 4/13/2011, 79 FR 42687; 7/23/2014, 50 CFR 223.203 ^{4d} , 50 CFR 226.212 ^{CH} .
* * * * *	* *			
CORALS				
* * * * *	* *			
Coral, (no common name)	<i>Cantharellus noumeae</i>	Wherever found	E	80 FR 60560; 10/7/2015 ^N .
* * * * *	* *			
Coral, (no common name)	<i>Siderastrea glynni</i>	Wherever found	E	80 FR 60560; 10/7/2015 ^N .
Coral, (no common name)	<i>Tubastraea floreana</i>	Wherever found	E	80 FR 60560; 10/7/2015 ^N .
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Dated: October 14, 2016.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

Billing Code 4333–15–P

